

AMENDED IN ASSEMBLY APRIL 3, 2003

AMENDED IN SENATE MARCH 17, 2003

AMENDED IN SENATE MARCH 12, 2003

AMENDED IN SENATE MARCH 10, 2003

## SENATE BILL

**No. 459**

### Introduced by Senator Burton

February 20, 2003

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An act to amend Sections 731, 779, 780, 1000.7, 1009, 1176, 1177, 1178, 1179, 1703, 1712, 1714, 1716, 1717, 1718, 1719, 1720, 1721, 1722, 1723, 1725, 1726, 1732.8, 1737, 1737.1, 1752.82, 1754, 1757, 1760, 1765, 1766, 1766.1, 1767.1, 1767.3, 1767.4, 1767.5, 1768.10, 1772, 1778, 1780, 1781, 1800, 1802, and 1830 of, to add ~~Section 1731.8~~ *Sections 1731.8 and 1800.5* to, and to repeal Sections 1724 and 1727 of, the Welfare and Institutions Code, relating to juvenile offenders, making an appropriation therefor, to take effect immediately, as an appropriation for the usual and current expenses of the state.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 459, as amended, Burton. Youthful Offender Parole Board.

(1) Existing law sets forth the powers and duties of the Youthful Offender Parole Board, including the power to consider and make decisions regarding eligibility for parole for wards who have been committed to the Department of the Youth Authority.

This bill would abolish the Youthful Offender Parole Board and instead create the Youth Authority Board within the Department of the Youth Authority. The bill would consolidate the duties of the Youthful Offender Parole Board in the Department of the Youth Authority and

the Youth Authority Board, as specified, and make related and conforming changes. The bill would set forth the membership of the Youth Authority Board and would require those members to receive specified training. The bill would require the Youth Authority Board to exercise specified powers and duties, including discharges of commitment, orders to parole and conditions thereof, revocation or suspension of parole, and disciplinary appeals. The bill would require the Department of the Youth Authority to exercise specified powers and duties, including determining offense categories, setting parole consideration dates, making decisions regarding disciplinary actions, and returning persons to the court of commitment for redispotion by the court. The bill would also require the department to notify the probation department and the court of the parole consideration dates. The bill would also require the Department of the Youth Authority to provide the court and the probation department with a treatment plan for the ward, and an estimated timeframe within which the treatment recommended by the court will be provided, as specified. The bill would require the department to conduct an annual review of the case of each ward and to provide copies of the review to the court and the probation department. The bill would also provide that a minor may not be held in physical confinement for a period of time in excess of the maximum term of physical confinement set by the court, as specified. These provisions described above would become operative on January 1, 2004.

(2) *The bill would express the intent of the Legislature that the Youth Authority Board be housed within the Department of the Youth Authority. The bill would require the Department of General Services to evaluate options regarding current leases and to determine when a move is appropriate.*

(3) The bill would appropriate the sum of \$1,550,000 from the General Fund to the Youthful Offender Parole Board to supplement funding provided in the Budget Act of 2002.

~~(3)~~

(4) The bill would declare that it is to take effect immediately as a statute providing an appropriation for the usual and current expenses of the state.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.



*The people of the State of California do enact as follows:*

SECTION 1. Section 731 of the Welfare and Institutions Code is amended to read:

731. (a) If a minor is adjudged a ward of the court on the ground that he or she is a person described by Section 602, the court may order any of the types of treatment referred to in Sections 727 and 730 and, in addition, may order the ward to make restitution, to pay a fine up to the amount of two hundred fifty dollars (\$250) for deposit in the county treasury if the court finds that the minor has the financial ability to pay the fine, or to participate in uncompensated work programs or the court may commit the ward to a sheltered-care facility or may order that the ward and his or her family or guardian participate in a program of professional counseling as arranged and directed by the probation officer as a condition of continued custody of that minor or may commit the minor to the Department of the Youth Authority.

(b) A minor committed to the Department of the Youth Authority may not be held in physical confinement for a period of time in excess of the maximum period of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought or continued the minor under the jurisdiction of the juvenile court. A minor committed to the Department of the Youth Authority also may not be held in physical confinement for a period of time in excess of the maximum term of physical confinement set by the court based upon the facts and circumstances of the matter or matters which brought or continued the minor under the jurisdiction of the juvenile court, which may not exceed the maximum period of adult confinement as determined pursuant to this section. This section does not limit the power of the Youth Authority Board to retain the minor on parole status for the period permitted by Section 1769.

SEC. 2. Section 779 of the Welfare and Institutions Code is amended to read:

779. The court committing a ward to the Youth Authority may thereafter change, modify, or set aside the order of commitment. Ten days' notice of the hearing of the application therefor shall be served by United States mail upon the Director of the Youth Authority. In changing, modifying, or setting aside the order of commitment, the court shall give due consideration to the effect

1 thereof upon the discipline and parole system of the Youth  
2 Authority or of the correctional school in which the ward may have  
3 been placed by the Youth Authority. Except as in this section  
4 provided, nothing in this chapter shall be deemed to interfere with  
5 the system of parole and discharge now or hereafter established by  
6 law, or by rule of the Youth Authority, for the parole and discharge  
7 of wards of the juvenile court committed to the Youth Authority,  
8 or with the management of any school, institution, or facility under  
9 the jurisdiction of the Youth Authority. Except as provided in this  
10 section, this chapter does not interfere with the system of transfer  
11 between institutions and facilities under the jurisdiction of the  
12 Youth Authority. This section does not limit the authority of the  
13 court to change, modify, or set aside an order of commitment after  
14 a noticed hearing and upon a showing of good cause that the Youth  
15 Authority is unable to, or failing to, provide treatment consistent  
16 with Section 734.

17 However, before any inmate of a correctional school may be  
18 transferred to a state hospital, he or she shall first be returned to a  
19 court of competent jurisdiction and, after hearing, may be  
20 committed to a state hospital for the insane in accordance with law.

21 SEC. 3. Section 780 of the Welfare and Institutions Code is  
22 amended to read:

23 780. If any person who has been committed to the Youth  
24 Authority appears to be an improper person to be received by or  
25 retained in any institution or facility under the jurisdiction of the  
26 Department of the Youth Authority or to be so incorrigible or so  
27 incapable of reformation under the discipline of any institution or  
28 facility under the jurisdiction of the department as to render his or  
29 her retention detrimental to the interests of the department, the  
30 department may order the return of that person to the committing  
31 court. However, the return of any person to the committing court  
32 does not relieve the department of any of its duties or  
33 responsibilities under the original commitment, and that  
34 commitment continues in full force and effect until it is vacated,  
35 modified, or set aside by order of the court.

36 If any person is returned to the committing court, his or her  
37 transportation shall be made, and the compensation therefor paid,  
38 as provided for the order of commitment.

39 SEC. 4. Section 1000.7 of the Welfare and Institutions Code  
40 is amended to read:



1 1000.7. As used in this chapter, “Youth Authority”  
2 “authority” and “the authority” mean and refer to the Department  
3 of the Youth Authority and “board” means and refers to the Youth  
4 Authority Board.

5 SEC. 5. Section 1009 of the Welfare and Institutions Code is  
6 amended to read:

7 1009. The Department of the Youth Authority may order the  
8 return of nonresident persons committed to the department or  
9 confined in institutions or facilities subject to the jurisdiction of the  
10 department to the states in which they have legal residence.  
11 Whenever any public officer, other than an officer or employee of  
12 the department, receives from any private source any moneys to  
13 defray the cost of that transportation, he or she shall immediately  
14 transmit the moneys to the department. All moneys, together with  
15 any moneys received directly by the department from private  
16 sources for transportation of nonresidents, shall be deposited by  
17 the department in the State Treasury, in augmentation of the  
18 current appropriation for the support of the department.

19 SEC. 6. Section 1176 of the Welfare and Institutions Code is  
20 amended to read:

21 1176. When, in the opinion of the Youth Authority Board, any  
22 person committed to or confined in any such school deserves  
23 parole according to regulations established for the purpose, and it  
24 will be to his or her advantage to be paroled, the board may grant  
25 parole under conditions it deems best. A reputable home or place  
26 of employment shall be provided for each person so paroled.

27 SEC. 7. Section 1177 of the Welfare and Institutions Code is  
28 amended to read:

29 1177. When any person so paroled has proved his or her  
30 ability for honorable self-support, the Youth Authority Board shall  
31 give him or her honorable discharge. Any person on parole who  
32 violates the conditions of his or her parole may be returned to the  
33 Youth Authority.

34 SEC. 8. Section 1178 of the Welfare and Institutions Code is  
35 amended to read:

36 1178. The Youth Authority Board may grant honorable  
37 discharge to any person committed to or confined in any such  
38 school. The reason for that discharge shall be entered in the  
39 records.

1 SEC. 9. Section 1179 of the Welfare and Institutions Code is  
2 amended to read:

3 1179. (a) All persons honorably discharged from control of  
4 the Youth Authority Board shall thereafter be released from all  
5 penalties or disabilities resulting from the offenses for which they  
6 were committed, including, but not limited to, any disqualification  
7 for any employment or occupational license, or both, created by  
8 any other provision of law. However, that a person shall not be  
9 eligible for appointment as a peace officer employed by any public  
10 agency if his or her appointment would otherwise be prohibited by  
11 Section 1029 of the Government Code.

12 (b) Notwithstanding the provisions of subdivision (a), that  
13 person may be appointed and employed as a peace officer by the  
14 Department of the Youth Authority if (1) at least five years have  
15 passed since his or her honorable discharge, and the person has had  
16 no misdemeanor or felony convictions except for traffic  
17 misdemeanors since he or she was honorably discharged by the  
18 board, or (2) the person was employed as a peace officer by the  
19 department on or before January 1, 1983. No person who is under  
20 the jurisdiction of the department shall be admitted to an  
21 examination for a peace officer position with the department  
22 unless and until the person has been honorably discharged from the  
23 jurisdiction of the department by the Youth Authority Board.

24 (c) Upon the final discharge or dismissal of any such person,  
25 the Department of the Youth Authority shall immediately certify  
26 the discharge or dismissal in writing, and shall transmit the  
27 certificate to the court by which the person was committed. The  
28 court shall thereupon dismiss the accusation and the action  
29 pending against that person.

30 SEC. 10. Section 1703 of the Welfare and Institutions Code  
31 is amended to read:

32 1703. As used in this chapter

33 (a) "Public offenses" means public offenses as that term is  
34 defined in the Penal Code;

35 (b) "Court" includes any official authorized to impose  
36 sentence for a public offense;

37 (c) "Youth Authority", "Authority", "authority" or  
38 "department" means the Department of the Youth Authority;

39 (d) "Board" or "board" means the Youth Authority Board.

40 (e) The masculine pronoun includes the feminine.

SEC. 11. Section 1712 of the Welfare and Institutions Code is amended to read:

1712. (a) All powers, duties, and functions pertaining to the care and treatment of wards provided by any provision of law and not specifically and expressly assigned to the Youth Authority Board shall be exercised and performed by the director. The director shall be the appointing authority for all civil service positions of employment in the department. The director may delegate the powers and duties vested in him or her by law, in accordance with Section 7.

(b) The director is authorized to make and enforce all rules appropriate to the proper accomplishment of the functions of the Department of the Youth Authority. The rules shall be promulgated and filed pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, and shall, to the extent practical, be stated in language that is easily understood by the general public.

(c) The Department of the Youth Authority shall maintain, publish, and make available to the general public, a compendium of rules and regulations promulgated by the department pursuant to this section.

(d) The following exceptions to the procedures specified in this section shall apply to the Department of the Youth Authority:

(1) The department may specify an effective date that is any time more than 30 days after the rule or regulation is filed with the Secretary of State; provided that no less than 20 days prior to that effective date, copies of the rule or regulation shall be posted in conspicuous places throughout each institution and shall be mailed to all persons or organizations who request them.

(2) The department may rely upon a summary of the information compiled by a hearing officer; provided that the summary and the testimony taken regarding the proposed action shall be retained as part of the public record for at least one year after the adoption, amendment, or repeal.

SEC. 12. Section 1714 of the Welfare and Institutions Code is amended to read:

1714. The Director of the Youth Authority may transfer persons confined in one institution or facility of the Department of the Youth Authority to another.



1 SEC. 13. Section 1716 of the Welfare and Institutions Code  
2 is amended to read:

3 1716. (a) There is in the Department of the Youth Authority  
4 a Youth Authority Board, which shall be composed of six  
5 members, one of whom shall be the Director of the Youth  
6 Authority who shall serve as the ex officio nonvoting chair of the  
7 board. Other than the chair, who is subject to appointment pursuant  
8 to Section 1711, the members shall be appointed by the Governor,  
9 with the advice and consent of the Senate, for a term of four years,  
10 and shall devote their entire time to its work.

11 (b) The individuals who were members of the Youthful  
12 Offender Parole Board immediately prior to the effective date of  
13 this section shall continue in their respective terms of office as  
14 members of the Youth Authority Board as provided in this section.  
15 The positions held by one of the members whose term ends on  
16 March 15, 2007, and by one of the members whose term ends on  
17 March 15, 2006, shall be eliminated on the effective date of this  
18 section, reducing the composition of the board to five members,  
19 not including the position held by the Director of the Youth  
20 Authority. All other members shall continue to serve out their  
21 respective terms. Their successors shall hold office for terms of  
22 four years. The members shall be eligible for reappointment and  
23 shall hold office until the appointment and qualification of their  
24 successors, with the term of each new appointee to commence on  
25 the expiration date of the term of his or her predecessor.

26 (c) All appointments to a vacancy occurring by reason of any  
27 cause other than the expiration of a term shall be for the unexpired  
28 term.

29 (d) If the Senate, in lieu of failing to confirm, finds that it  
30 cannot consider all or any of the appointments to the Youth  
31 Authority Board adequately because the amount of legislative  
32 business and the probable duration of the session does not permit,  
33 it may adopt a single house resolution by a majority vote of all  
34 members elected to the Senate to that effect and requesting the  
35 resubmission of the unconfirmed appointment or appointments at  
36 a succeeding session of the Legislature, whether regular or  
37 extraordinary, convening on or after a date fixed in the resolution.  
38 This resolution shall be filed immediately after its adoption in the  
39 office of the Secretary of State and the appointee or appointees





1 affected shall serve subject to later confirmation or rejection by the  
2 Senate.

3 SEC. 14. Section 1717 of the Welfare and Institutions Code  
4 is amended to read:

5 1717. (a) Persons appointed to the Youth Authority Board  
6 shall have a broad background in and ability for appraisal of  
7 youthful law offenders and delinquents, the circumstances of  
8 delinquency for which those persons are committed, and the  
9 evaluation of the individual's progress toward reformation.  
10 Insofar as practicable, members shall be selected who have a  
11 varied and sympathetic interest in youth correction work including  
12 persons widely experienced in the fields of corrections, sociology,  
13 law, law enforcement, mental health, and education.

14 (b) The selection of persons and their appointment by the  
15 Governor and confirmation by the Senate shall reflect as nearly as  
16 possible a cross section of the racial, sexual, economic, and  
17 geographic features of the state.

18 (c) The Director of the Youth Authority shall serve as the ex  
19 officio nonvoting chair of the board. The chair shall be the  
20 administrative head of the board and shall exercise all duties and  
21 functions necessary to ensure that the responsibilities of the board  
22 are successfully discharged.

23 (d) Within 60 days of appointment and annually thereafter,  
24 persons appointed to the Youth Authority Board shall undergo a  
25 minimum of 40 hours of training in the following areas: treatment  
26 and training programs provided to wards at Youth Authority  
27 institutions, including, but not limited to, educational, vocational,  
28 mental health, medical, substance abuse, psychotherapeutic  
29 counseling, and sex offender treatment programs; a review of  
30 current national research on effective interventions with juvenile  
31 offenders and how they compare to department program and  
32 treatment services; parole services; board member duties and  
33 responsibilities; and a review of factors influencing ward lengths  
34 of stay and ward recidivism rates and their relationship to one  
35 another.

36 SEC. 15. Section 1718 of the Welfare and Institutions Code  
37 is amended to read:

38 1718. (a) The members of the board shall receive an annual  
39 salary as provided for by Chapter 6 (commencing with Section  
40 11550) of Part 1 of Division 3 of Title 2 of the Government Code

1 and their actual necessary traveling expenses to the same extent as  
2 is provided for other state offices.

3 (b) The Governor may remove any member of the board for  
4 misconduct, incompetency or neglect of duty after a full hearing  
5 by the Board of Corrections.

6 SEC. 16. Section 1719 of the Welfare and Institutions Code  
7 is amended to read:

8 1719. (a) The following powers and duties shall be exercised  
9 and performed by the Youth Authority Board as such, or may be  
10 delegated to a panel, member, or case hearing representative as  
11 provided in Section 1721: discharges of commitment, orders to  
12 parole and conditions thereof, revocation or suspension of parole,  
13 and disciplinary appeals.

14 (b) Any ward may appeal an adjustment to his or her parole  
15 consideration date to a panel comprised of at least two board  
16 members.

17 (c) The following powers and duties shall be exercised and  
18 performed by the Department of the Youth Authority: return of  
19 persons to the court of commitment for redispotion by the court,  
20 determination of offense category, setting of parole consideration  
21 dates, conducting annual reviews, treatment program orders,  
22 institution placements, furlough placements, return of nonresident  
23 persons to the jurisdiction of the state of legal residence,  
24 disciplinary decisionmaking, and referrals pursuant to Section  
25 1800.

26 (d) The Department of the Youth Authority shall promulgate  
27 policies and regulations implementing a departmentwide system  
28 of graduated sanctions for addressing ward disciplinary matters.  
29 The disciplinary decisionmaking system shall be employed as the  
30 disciplinary system in department institutions, and shall provide  
31 a framework for handling disciplinary matters in a manner that is  
32 consistent, timely, proportionate, and ensures the due process  
33 rights of wards. The department shall develop and implement a  
34 system of graduated sanctions which distinguishes between minor,  
35 intermediate, and serious misconduct. The department may extend  
36 a ward's parole consideration date, subject to appeal pursuant to  
37 subdivision (b), from one to not more than 12 months, inclusive,  
38 for a sustained serious misconduct violation if all other sanctioning  
39 options have been considered and determined to be unsuitable in  
40 light of the ward's previous case history and the circumstances of



the misconduct. In any case in which a parole consideration date has been extended, the disposition report shall clearly state the reasons for the extension. The length of any parole consideration date extension shall be based on the seriousness of the misconduct, the ward's prior disciplinary history, the ward's progress toward treatment objectives, the ward's earned program credits, and any extenuating or mitigating circumstances. The department shall promulgate regulations to implement a table of sanctions to be used in determining parole consideration date extensions. The department also may promulgate regulations to establish a process for granting wards who have successfully responded to disciplinary sanctions a reduction of up to 50 percent of any time acquired for disciplinary matters.

SEC. 17. Section 1720 of the Welfare and Institutions Code is amended to read:

1720. (a) The case of each ward shall be reviewed by the Department of the Youth Authority within 45 days of arrival at the department, and at other times as is necessary to meet the powers or duties of the board.

(b) The department shall periodically review the case of each ward for the purpose of determining whether existing orders and dispositions in individual cases should be modified or continued in force. These reviews shall be made as frequently as the department considers desirable and shall be made with respect to each ward at intervals not exceeding one year.

(c) The ward shall be entitled to notice if his or her annual review is delayed beyond one year after the previous annual review hearing. The ward shall be informed of the reason for the delay and of the date the review hearing is to be held.

(d) Failure of the department to review the case of a ward within 15 months of a previous review shall not of itself entitle the ward to discharge from the control of the Youth Authority but shall entitle him or her to petition the superior court of the county from which he or she was committed for an order of discharge, and the court shall discharge him or her unless the court is satisfied as to the need for further control.

(e) Reviews conducted by the department pursuant to this section shall be written and shall include, but not be limited to, the following: verification of the treatment or program goals and orders for the ward to ensure the ward is receiving treatment and

1 programming that is narrowly tailored to address the correctional  
2 treatment needs of the ward and is being provided in a timely  
3 manner that is designed to meet the parole consideration date set  
4 for the ward; an assessment of the ward's adjustment and  
5 responsiveness to treatment, programming, and custody; a review  
6 of the ward's disciplinary history and response to disciplinary  
7 sanctions; an updated individualized treatment plan for the ward  
8 that makes adjustments based on the review required by this  
9 subdivision; an estimated timeframe for the ward's  
10 commencement and completion of the treatment programs or  
11 services; and a review of any additional information relevant to the  
12 ward's progress.

13 (f) The department shall provide copies of the reviews prepared  
14 pursuant to this section to the court and the probation department  
15 of the committing county.

16 SEC. 18. Section 1721 of the Welfare and Institutions Code  
17 is amended to read:

18 1721. (a) The Youth Authority Board shall adopt policies  
19 governing the performance of its functions by the full board, or,  
20 pursuant to delegation, by panels, or referees. Whenever the board  
21 performs its functions meeting en banc in either public or  
22 executive sessions to decide matters of policy, four members shall  
23 be present and no action shall be valid unless it is concurred in by  
24 a majority vote of those present.

25 (b) Case hearing representatives from the Department of the  
26 Youth Authority may be employed to participate with the board in  
27 the hearing of cases and authority may be delegated to those  
28 persons as provided in this section.

29 (c) The board may delegate its authority to hear, consider, and  
30 act upon cases to members or case hearing representatives, sitting  
31 either on a panel or as a referee. A panel may consist of two or more  
32 members, a member and a case hearing representative, or two case  
33 hearing representatives. Two members of a panel shall constitute  
34 a quorum, and no action of the panel shall be valid unless  
35 concurred in by a majority vote of those present.

36 (d) When delegating its authority, the board may condition  
37 finality of the decision of the panel or referee to whom authority  
38 is delegated on concurrence of a member or members of the board.  
39 In determining whether, in any case, it shall delegate its authority



1 and the extent of such delegation, the board shall take into account  
2 the degree of complexity of the issues presented by the case.

3 (e) The board shall adopt rules under which a person under the  
4 jurisdiction of the Youth Authority or other persons, as specified  
5 in those rules, may appeal any decision of a case hearing  
6 representative. Any decision resulting in the extension of a parole  
7 consideration date shall entitle a ward to appeal the decision to a  
8 panel of at least two board members. The board shall consider and  
9 act upon the appeal in accordance with those rules.

10 SEC. 19. Section 1722 of the Welfare and Institutions Code  
11 is amended to read:

12 1722. (a) Any rules and regulations, including any  
13 resolutions and policy statements, promulgated by the Youth  
14 Authority Board, shall be promulgated and filed pursuant to  
15 Chapter 3.5 (commencing with Section 11340) of Part 1 of  
16 Division 3 of Title 2 of the Government Code, and shall, to the  
17 extent practical, be stated in language that is easily understood by  
18 the general public.

19 (b) The board shall maintain, publish, and make available to the  
20 general public, a compendium of its rules and regulations,  
21 including any resolutions and policy statements, promulgated  
22 pursuant to this section.

23 (c) The following exception to the procedures specified in this  
24 section shall apply to the board: The chairperson may specify an  
25 effective date that is any time more than 30 days after the rule or  
26 regulation is filed with the Secretary of State; provided that no less  
27 than 20 days prior to that effective date, copies of the rule or  
28 regulation shall be posted in conspicuous places throughout each  
29 institution and shall be mailed to all persons or organizations who  
30 request them.

31 SEC. 20. Section 1723 of the Welfare and Institutions Code  
32 is amended to read:

33 1723. (a) Except as provided in Section 1721, every order  
34 granting and revoking parole and issuing final discharges to any  
35 person under the jurisdiction of the Youth Authority shall be made  
36 by the Youth Authority Board or its designee, as authorized by this  
37 article.

38 (b) All other powers conferred to the Youth Authority Board  
39 may be exercised through subordinates or delegated to the  
40 Department of the Youth Authority under rules established by the

1 board. Any person subjected to an order of those subordinates or  
2 of the department pursuant to that delegation may petition the  
3 board for review. The board may review those orders under  
4 appropriate rules and regulations.

5 (c) All board designees shall be subject to the training required  
6 pursuant to subdivision (d) of Section 1717.

7 SEC. 21. Section 1724 of the Welfare and Institutions Code  
8 is repealed.

9 SEC. 22. Section 1725 of the Welfare and Institutions Code  
10 is amended to read:

11 1725. The Youth Authority Board shall succeed to and shall  
12 exercise and perform all powers and duties granted to, exercised  
13 by, and imposed upon the Youthful Offender Parole Board, as  
14 authorized by this article. The Youthful Offender Parole Board is  
15 abolished.

16 SEC. 23. Section 1726 of the Welfare and Institutions Code  
17 is amended to read:

18 1726. (a) Employees of the Department of the Youth  
19 Authority who are needed to support the functions of the Youth  
20 Authority Board shall be selected and appointed pursuant to the  
21 State Civil Service Act.

22 (b) All officers and employees of the Youthful Offender Parole  
23 Board who on January 1, 2004, are serving in the state civil service,  
24 other than as temporary employees, as part of the direct staff of the  
25 Youthful Offender Parole Board shall be transferred to the  
26 Department of the Youth Authority and subject to retention  
27 pursuant to Section 19050.9 of the Government Code.

28 SEC. 24. Section 1727 of the Welfare and Institutions Code  
29 is repealed.

30 SEC. 25. Section 1731.8 is added to the Welfare and  
31 Institutions Code, to read:

32 1731.8. Notwithstanding any other provision of law, within  
33 60 days of the commitment of a ward to the Department of the  
34 Youth Authority, the department shall set an initial parole  
35 consideration date for the ward and shall notify the probation  
36 department and the committing juvenile court of that date. The  
37 department shall use the category offense guidelines contained in  
38 Sections 4951 to 4957, inclusive, of, and the deviation guidelines  
39 contained in subdivision (i) of Section 4945 of, Title 15 of the

1 California Code of Regulations, that were in effect on January 1,  
2 2003, in setting an initial parole consideration date.

3 SEC. 26. Section 1732.8 of the Welfare and Institutions Code  
4 is amended to read:

5 1732.8. (a) Notwithstanding any other law and subject to the  
6 provisions of this section, the Director of the Youth Authority may  
7 transfer to and cause to be confined within the custody of the  
8 Director of Corrections any person 18 years of age or older who  
9 is subject to the custody, control, and discipline of the Department  
10 of the Youth Authority and who is scheduled to be returned, or has  
11 been returned, to the Department of the Youth Authority from the  
12 Department of Corrections after serving a sentence imposed  
13 pursuant to Section 1170 of the Penal Code for a felony that was  
14 committed while he or she was in the custody of the Department  
15 of the Youth Authority.

16 (b) No person shall be transferred pursuant to this section until  
17 and unless the person voluntarily, intelligently, and knowingly  
18 executes a written consent to the transfer, which shall be  
19 irrevocable.

20 (c) Prior to being returned to the Youth Authority, a person in  
21 the custody of the Department of Corrections who is scheduled to  
22 be returned to the Department of the Youth Authority shall meet  
23 personally with a Youth Authority parole agent or other  
24 appropriate Department of the Youth Authority staff member. The  
25 parole agent or staff member shall explain, using language clearly  
26 understandable to the person, all of the following matters:

27 (1) What will be expected from the person when he or she  
28 returns to a Youth Authority institution in terms of cooperative  
29 daily living conduct and participation in applicable counseling,  
30 academic, vocational, work experience, or specialized  
31 programming.

32 (2) The conditions of parole applicable to the person, and how  
33 those conditions will be monitored and enforced while the person  
34 is in the custody of the Youth Authority.

35 (3) The person's right under this section to voluntarily and  
36 irrevocably consent to continue to be housed in an institution under  
37 the jurisdiction of the Department of Corrections instead of being  
38 returned to the Youth Authority.

39 (d) A person who has been returned to the Youth Authority  
40 after serving a sentence described in subdivision (a) may be



1 transferred to the custody of the Department of Corrections if the  
2 person consents to the transfer after having been provided with the  
3 explanations described in subdivision (c).

4 (e) If a Youth Authority person consents to being housed in an  
5 institution under the jurisdiction of the Department of Corrections  
6 pursuant to this section, he or she shall be subject to the general  
7 rules and regulations of the Department of Corrections. The Youth  
8 Authority Board shall continue to determine the person's  
9 eligibility for parole at the same intervals, in the same manner, and  
10 under the same standards and criteria that would be applicable if  
11 the person were confined in the Department of the Youth  
12 Authority. However, the board shall not order or recommend any  
13 treatment, education, or other programming that is unavailable in  
14 the institution where the person is housed, and shall not deny  
15 parole to a person housed in the institution based solely on the  
16 person's failure to participate in programs unavailable to the  
17 person.

18 (f) Any person housed in an institution under the jurisdiction of  
19 the Department of Corrections pursuant to this section who has not  
20 attained a high school diploma or its equivalent shall participate in  
21 educational or vocational programs, to the extent the appropriate  
22 programs are available.

23 (g) Upon notification by the Director of Corrections that the  
24 person should be no longer be housed in an institution under its  
25 jurisdiction, the Department of the Youth Authority shall  
26 immediately send for, take, and receive the person back into an  
27 institution under its jurisdiction.

28 SEC. 27. Section 1737 of the Welfare and Institutions Code  
29 is amended to read:

30 1737. When a person has been committed to the custody of the  
31 authority, if it is deemed warranted by a diagnostic study and  
32 recommendation approved by the director, the judge who ordered  
33 the commitment or, if the judge is not available, the presiding  
34 judge of the court, within 120 days of the date of commitment on  
35 his or her own motion, or the court, at any time thereafter upon  
36 recommendation of the director, may recall the commitment  
37 previously ordered and resentence the person as if he or she had not  
38 previously been sentenced. The time served while in custody of the  
39 authority shall be credited toward the term of any person  
40 resentenced pursuant to this section.



1 As used in this section, “time served while in custody of the  
2 authority” means the period of time during which the person was  
3 physically confined in a state institution by order of the  
4 Department of the Youth Authority or the Youth Authority Board.

5 SEC. 28. Section 1737.1 of the Welfare and Institutions Code  
6 is amended to read:

7 1737.1. Whenever any person who has been convicted of a  
8 public offense in adult court and committed to and accepted by the  
9 Department of the Youth Authority appears to be an improper  
10 person to be retained by the department, or to be so incorrigible or  
11 so incapable of reformation under the discipline of the department  
12 as to render his or her detention detrimental to the interests of the  
13 department and the other persons committed thereto, the  
14 department may order the return of that person to the committing  
15 court. The court may then commit the person to a state prison or  
16 sentence him or her to a county jail as provided by law for  
17 punishment of the offense of which he or she was convicted. The  
18 maximum term of imprisonment for a person committed to a state  
19 prison under this section shall be a period equal to the maximum  
20 term prescribed by law for the offense of which he or she was  
21 convicted less the period during which he or she was under the  
22 control of the department. This section shall not apply to  
23 commitments from juvenile court.

24 As used in this section “period during which he or she was under  
25 the control of the department” means the period of time during  
26 which he or she was physically confined in a state institution by  
27 order of the department or the Youth Authority Board.

28 SEC. 29. Section 1752.82 of the Welfare and Institutions  
29 Code is amended to read:

30 1752.82. (a) Whenever an adult or minor is committed to or  
31 housed in a Youth Authority facility and he or she owes restitution  
32 to a victim or a restitution fine imposed pursuant to Section 13967,  
33 as operative on or before September 28, 1994, of the Government  
34 Code, or Section 1202.4 of the Penal Code, or Section 1203.04, as  
35 operative on or before August 2, 1994, of the Penal Code, or  
36 pursuant to Section 729.6, as operative on or before August 2,  
37 1995, Section 730.6 or 731.1, as operative on or before August 2,  
38 1995, the director may deduct a reasonable amount not to exceed  
39 50 percent from the wages of that adult or minor and the amount  
40 so deducted, exclusive of the costs of administering this section,

1 which shall be retained by the director, shall be transferred to the  
2 California Victim Compensation and Government Claims Board  
3 for deposit in the Restitution Fund in the State Treasury in the case  
4 of a restitution fine, or, in the case of a restitution order, and upon  
5 the request of the victim, shall be paid directly to the victim. Any  
6 amount so deducted shall be credited against the amount owing on  
7 the fine or to the victim. The committing court shall be provided  
8 a record of any payments.

9 (b) A victim who has requested that restitution payments be  
10 paid directly to him or her pursuant to subdivision (a) shall provide  
11 a current address to the Youth Authority to enable the Youth  
12 Authority to send restitution payments collected on the victim's  
13 behalf to the victim.

14 (c) In the case of a restitution order, whenever the victim has  
15 died, cannot be located, or has not requested the restitution  
16 payment, the director may deduct a reasonable amount not to  
17 exceed 50 percent of the wages of that adult or minor and the  
18 amount so deducted, exclusive of the costs of administering this  
19 section, which shall be retained by the director, shall be transferred  
20 to the California Victim Compensation and Government Claims  
21 Board, pursuant to subdivision (d), after one year has elapsed from  
22 the time the ward is discharged by the Youth Authority Board. Any  
23 amount so deducted shall be credited against the amount owing to  
24 the victim. The funds so transferred shall be deposited in the  
25 Restitution Fund.

26 (d) If the Youth Authority has collected restitution payments on  
27 behalf of a victim, the victim shall request those payments no later  
28 than one year after the ward has been discharged by the Youth  
29 Authority Board. Any victim who fails to request those payments  
30 within that time period shall have relinquished all rights to the  
31 payments, unless he or she can show reasonable cause for failure  
32 to request those payments within that time period.

33 (e) The director shall transfer to the California Victim  
34 Compensation and Government Claims Board all restitution  
35 payments collected prior to the effective date of this section on  
36 behalf of victims who have died, cannot be located, or have not  
37 requested restitution payments. The California Victim  
38 Compensation and Government Claims Board shall deposit these  
39 amounts in the Restitution Fund.

(f) For purposes of this section, “victim” includes a victim’s immediate surviving family member, on whose behalf restitution has been ordered.

SEC. 30. Section 1754 of the Welfare and Institutions Code is amended to read:

1754. Nothing in this chapter shall be taken to give the Youth Authority Board or the director control over existing facilities, institutions or agencies; or to require them to serve the board or the director inconsistently with their functions, or with the authority of their officers, or with the laws and regulations governing their activities; or to give the board or the director power to make use of any private institution or agency without its consent; or to pay a private institution or agency for services which a public institution or agency is willing and able to perform.

SEC. 31. Section 1757 of the Welfare and Institutions Code is amended to read:

1757. The director may inspect all public institutions and agencies whose facilities he or she is authorized to utilize and all private institutions and agencies whose facilities he or she is using. Every institution or agency, whether public or private, is required to afford the director reasonable opportunity to examine or consult with persons committed to the Youth Authority who are for the time being in the custody of the institution or agency.

SEC. 32. Section 1760 of the Welfare and Institutions Code is amended to read:

1760. The director is hereby authorized when necessary and when funds are available for these purposes to establish and operate any of the following:

(a) Places for the detention, prior to examination and study, of all persons committed to the Youth Authority.

(b) Places for examination and study of persons committed to the Youth Authority.

(c) Places of confinement, educational institutions, hospitals and other correctional or segregative facilities, institutions and agencies, for the proper execution of the duties of the Youth Authority.

(d) Agencies and facilities for the supervision, training, and control of persons who have not been placed in confinement or who have been released from confinement by the Youth Authority

1 Board upon conditions, and for aiding those persons to find  
2 employment and assistance.

3 (e) Agencies and facilities designed to aid persons who have  
4 been discharged by the Youth Authority Board in finding  
5 employment and in leading a law-abiding existence.

6 SEC. 33. Section 1765 of the Welfare and Institutions Code  
7 is amended to read:

8 1765. (a) Except as otherwise provided in this chapter, the  
9 Department of the Youth Authority and the Youth Authority Board  
10 shall keep under continued study a person in their control and shall  
11 retain him or her, subject to the limitations of this chapter, under  
12 supervision and control so long as in their judgment that control  
13 is necessary for the protection of the public.

14 (b) The board shall discharge that person as soon as in its  
15 opinion there is reasonable probability that he or she can be given  
16 full liberty without danger to the public.

17 SEC. 34. Section 1766 of the Welfare and Institutions Code  
18 is amended to read:

19 1766. (a) When a person has been committed to the  
20 Department of the Youth Authority, the Youth Authority Board  
21 may, according to standardized review and appeal procedures  
22 established by the board in policy and regulation and subject to the  
23 powers and duties enumerated in subdivision (a) of Section 1719:

24 (1) Permit the ward his or her liberty under supervision and  
25 upon conditions it believes are best designed for the protection of  
26 the public.

27 (2) Order his or her confinement under conditions it believes  
28 best designed for the protection of the public pursuant to the  
29 purposes set forth in Section 1700, except that a person committed  
30 to the Youth Authority pursuant to Sections 731 or 1731.5 may not  
31 be held in physical confinement for a total period of time in excess  
32 of the maximum periods of time set forth in Section 731. Nothing  
33 in this subdivision limits the power of the board to retain the minor  
34 or the young adult on parole status for the period permitted by  
35 Sections 1769, 1770, and 1771.

36 (3) Order reconfinement or renewed release under supervision  
37 as often as conditions indicate to be desirable.

38 (4) Revoke or modify any parole or disciplinary appeal order.



1 (5) Modify an order of discharge if conditions indicate that  
2 such modification is desirable and when that modification is to the  
3 benefit of the person committed to the authority.

4 (6) Discharge him or her from its control when it is satisfied  
5 that discharge is consistent with the protection of the public.

6 (b) Within 60 days of intake, the department shall provide the  
7 court and the probation department, with a treatment plan for the  
8 ward.

9 (c) A ward shall be entitled to an appearance hearing before a  
10 review panel of Youth Authority Board members for any action  
11 that would result in the extension of a parole consideration date  
12 pursuant to subdivision (e) of Section 1721.

13 (d) The department shall promulgate policies and regulations  
14 to implement this section.

15 (e) Commencing on July 1, 2004, and annually thereafter, for  
16 the preceding fiscal year, the department shall collect and make  
17 available to the public the following information:

18 (1) The total number of ward case reviews conducted by the  
19 department and the Youth Authority Board, categorized by  
20 guideline category.

21 (2) The number of parole consideration dates for each category  
22 set at guideline, above guideline, and below guideline.

23 (3) The number of ward case reviews resulting in a change to  
24 a parole consideration date, including the category assigned to the  
25 ward, the amount of time added to or subtracted from the parole  
26 consideration date, and the specific reason for the change.

27 (4) The percentage of wards who have had a parole  
28 consideration date changed to a later date, the percentage of wards  
29 who have had a parole consideration date changed to an earlier  
30 date, and the average annual time added or subtracted per case.

31 (5) The number and percentage of wards who, while confined  
32 or on parole, are charged with a new misdemeanor or felony  
33 criminal offense.

34 (6) Any additional data or information identified by the  
35 department as relevant.

36 (f) As used in subdivision (e), the term “ward case review”  
37 means any review of a ward that changes, maintains, or  
38 appreciably affects the programs, treatment, or placement of a  
39 ward.

1 SEC. 35. Section 1766.1 of the Welfare and Institutions Code  
2 is amended to read:

3 1766.1. When permitting an adult or minor committed to the  
4 Department of the Youth Authority his or her liberty pursuant to  
5 subdivision (a) of Section 1766, the Youth Authority Board shall  
6 impose as a condition thereof that the adult or minor pay in full any  
7 restitution fine or restitution order imposed pursuant to Section  
8 13967, as operative on or before September 28, 1994, of the  
9 Government Code, or Section 1202.4 of the Penal Code, or Section  
10 1203.4, as operative on or before August 2, 1994, of the Penal  
11 Code, or Section 730.6 or 731.1, as operative on or before August  
12 2, 1995. Payment shall be in installments set in an amount  
13 consistent with the adult's or minor's ability to pay.

14 SEC. 36. Section 1767.1 of the Welfare and Institutions Code  
15 is amended to read:

16 1767.1. At least 30 days before the Youth Authority Board  
17 meets to review or consider the parole of any person who has been  
18 committed to the control of the Department of the Youth Authority  
19 for the commission of any offense described in subdivision (b),  
20 paragraph (2) of subdivision (d), or subdivision (e) of Section 707,  
21 or for the commission of an offense in violation of paragraph (2)  
22 of subdivision (a) of Section 262 or paragraph (3) of subdivision  
23 (a) of Section 261 of the Penal Code, the board shall send written  
24 notice of the hearing to each of the following persons: the judge  
25 of the court that committed the person to the authority, the attorney  
26 for the person, the district attorney of the county from which the  
27 person was committed, the law enforcement agency that  
28 investigated the case, and the victim pursuant to Section 1767. The  
29 board shall also send a progress report regarding the ward to the  
30 judge of the court that committed the person at the same time it  
31 sends the written notice to the judge.

32 Each of the persons so notified shall have the right to submit a  
33 written statement to the board at least 10 days prior to the decision  
34 for the board's consideration. Nothing in this subdivision shall be  
35 construed to permit any person so notified to attend the hearing.  
36 With respect to the parole of any person over the age of 18 years,  
37 the presiding officer of the board shall state findings and  
38 supporting reasons for the decision of the board. The findings and  
39 reasons shall be reduced to writing, and shall be made available for





1 inspection by members of the public no later than 30 days from the  
2 date of the decision.

3 SEC. 37. Section 1767.3 of the Welfare and Institutions Code  
4 is amended to read:

5 1767.3. (a) The Youth Authority Board may suspend, cancel,  
6 or revoke any parole and may order returned to custody of the  
7 department any person committed to it who is on parole.

8 (b) The written order of the director is a sufficient warrant for  
9 any peace officer to return to the custody of the department any  
10 person committed to it who is on parole or who has been permitted  
11 his or her liberty on condition.

12 (c) The written order of the Director of the Youth Authority is  
13 a sufficient warrant for any peace officer to return to the custody  
14 of the department, pending further proceedings before *the* Youth  
15 Authority Board or the Board of Prison Terms, any person  
16 committed to, or in the custody of, the department who is on parole  
17 or who has been permitted his or her liberty on condition, or for  
18 any peace officer to return to the custody of the department any  
19 person who has escaped from the custody of the department or  
20 from any institution or facility in which he or she has been placed  
21 by the department.

22 (d) All peace officers shall execute the orders in like manner as  
23 a felony warrant.

24 SEC. 38. Section 1767.4 of the Welfare and Institutions Code  
25 is amended to read:

26 1767.4. Whenever any person paroled by the Youth Authority  
27 Board is returned to the department upon the order of the director  
28 by a peace officer or probation officer, the officer shall be paid the  
29 same fees and expenses as are allowed those officers by law for the  
30 transportation of persons to institutions or facilities under the  
31 jurisdiction of the department.

32 SEC. 39. Section 1767.5 of the Welfare and Institutions Code  
33 is amended to read:

34 1767.5. The authority may pay any private home for the care  
35 of any person committed to the authority and paroled by the Youth  
36 Authority Board to the custody of the private home (including both  
37 persons committed to the authority under this chapter and persons  
38 committed to it by the juvenile court) at a rate to be approved by  
39 the Department of Finance. Payments for the care of paroled  
40 persons may be made from funds available to the authority for that

1 purpose, or for the support of the institution or facility under the  
2 jurisdiction of the authority from which the person has been  
3 paroled.

4 SEC. 40. Section 1768.10 of the Welfare and Institutions  
5 Code is amended to read:

6 1768.10. Notwithstanding any other law, the Youth Authority  
7 Board may require a person under its jurisdiction or control to  
8 submit to an examination or test for tuberculosis when the board  
9 reasonably suspects that the parolee has, has had, or has been  
10 exposed to, tuberculosis in an infectious stage. For purposes of this  
11 section, an “examination or test for tuberculosis” means testing  
12 and followup examinations or treatment according to the Centers  
13 for Disease Control and the American Thoracic Society  
14 recommendations in effect at the time of the initial examination.

15 SEC. 41. Section 1772 of the Welfare and Institutions Code  
16 is amended to read:

17 1772. (a) Subject to subdivision (b), every person honorably  
18 discharged from control by the Youth Authority Board who has  
19 not, during the period of control by the authority, been placed by  
20 the authority in a state prison shall thereafter be released from all  
21 penalties and disabilities resulting from the offense or crime for  
22 which he or she was committed, and every person discharged may  
23 petition the court which committed him or her, and the court may  
24 upon that petition set aside the verdict of guilty and dismiss the  
25 accusation or information against the petitioner who shall  
26 thereafter be released from all penalties and disabilities resulting  
27 from the offense or crime for which he or she was committed,  
28 including, but not limited to, any disqualification for any  
29 employment or occupational license, or both, created by any other  
30 provision of law.

31 (b) Notwithstanding subdivision (a):

32 (1) A person described by subdivision (a) shall not be eligible  
33 for appointment as a peace officer employed by any public agency  
34 if his or her appointment would otherwise be prohibited by Section  
35 1029 of the Government Code. However, that person may be  
36 appointed and employed as a peace officer by the Department of  
37 the Youth Authority if (A) at least five years have passed since his  
38 or her honorable discharge, and the person has had no  
39 misdemeanor or felony convictions except for traffic  
40 misdemeanors since he or she was honorably discharged by the



1 Youth Authority Board, or (B) the person was employed as a peace  
2 officer by the Department of the Youth Authority on or before  
3 January 1, 1983. No person who is under the jurisdiction of the  
4 Department of the Youth Authority shall be admitted to an  
5 examination for a peace officer position with the department  
6 unless and until the person has been honorably discharged from the  
7 jurisdiction of the Youth Authority Board.

8 (2) A person described by subdivision (a) is subject to Sections  
9 12021 and 12021.1 of the Penal Code.

10 (3) The conviction of a person described by subdivision (a) for  
11 an offense listed in subdivision (b) of Section 707 is admissible in  
12 a subsequent criminal, juvenile, or civil proceeding if otherwise  
13 admissible, if all the following are true:

14 (A) The person was 16 years of age or older at the time he or  
15 she committed the offense.

16 (B) The person was found unfit to be dealt with under the  
17 juvenile court law pursuant to Section 707 because he or she was  
18 alleged to have committed an offense listed in subdivision (b) of  
19 Section 707.

20 (C) The person was tried as an adult and convicted of an offense  
21 listed in subdivision (b) of Section 707.

22 (D) The person was committed to the Department of the Youth  
23 Authority for the offense referred to in subparagraph (C).

24 (4) The conviction of a person described by subdivision (a)  
25 may be used to enhance the punishment for a subsequent offense.

26 (5) The conviction of a person who is 18 years of age or older  
27 at the time he or she committed the offense is admissible in a  
28 subsequent civil, criminal, or juvenile proceeding, if otherwise  
29 admissible pursuant to law.

30 (c) Every person discharged from control by the Youth  
31 Authority Board shall be informed of the provisions of this section  
32 in writing at the time of discharge.

33 (d) “Honorably discharged” as used in this section means and  
34 includes every person whose discharge is based upon a good  
35 record on parole.

36 SEC. 42. Section 1778 of the Welfare and Institutions Code  
37 is amended to read:

38 1778. Notwithstanding Section 11425.10 of the Government  
39 Code, Chapter 4.5 (commencing with Section 11400) of Part 1 of  
40 Division 3 of Title 2 of the Government Code does not apply to a

1 parole hearing or other adjudication concerning rights of a person  
2 committed to the control of the Youth Authority conducted by the  
3 Department of the Youth Authority or the Youth Authority Board.

4 SEC. 43. Section 1780 of the Welfare and Institutions Code  
5 is amended to read:

6 1780. If the date of discharge occurs before the expiration of  
7 a period of control equal to the maximum term prescribed by law  
8 for the offense of which he or she was convicted, and if the  
9 Department of the Youth Authority believes that unrestrained  
10 freedom for that person would be dangerous to the public, the  
11 Department of the Youth Authority shall petition the court by  
12 which the commitment was made.

13 The petition shall be accompanied by a written statement of the  
14 facts upon which the department bases its opinion that discharge  
15 from its control at the time stated would be dangerous to the public,  
16 but a petition may not be dismissed merely because of its form or  
17 an asserted insufficiency of its allegations; every order shall be  
18 reviewed upon its merits.

19 SEC. 44. Section 1781 of the Welfare and Institutions Code  
20 is amended to read:

21 1781. Upon the filing of a petition under this article, the court  
22 shall notify the person whose liberty is involved, and if he or she  
23 is a minor, his or her parent or guardian if practicable, of the  
24 application and shall afford him or her an opportunity to appear in  
25 court with the aid of counsel and of process to compel attendance  
26 of witnesses and production of evidence. When he or she is unable  
27 to provide his or her own counsel, the court shall appoint counsel  
28 to represent him or her.

29 In the case of any person who is the subject of such a petition  
30 and who is under the control of the Youth Authority for the  
31 commission of any offense of rape in violation of paragraph (1) or  
32 (2) of subdivision (a) of Section 262 or subdivision (2) or  
33 subdivision (3) of Section 261 of the Penal Code, or murder, the  
34 Department of the Youth Authority shall send written notice of the  
35 petition and of any hearing set for the petition to each of the  
36 following persons: the attorney for the person who is the subject  
37 of the petition, the district attorney of the county from which the  
38 person was committed, and the law enforcement agency that  
39 investigated the case. The department shall also send written  
40 notice to the victim of the rape or the next of kin of the person

1 murdered if he or she requests notice from the department and  
2 keeps it apprised of his or her current mailing address. Notice shall  
3 be sent at least 30 days before the hearing.

4 SEC. 45. Section 1800 of the Welfare and Institutions Code  
5 is amended to read:

6 1800. Whenever the Department of the Youth Authority  
7 determines that the discharge of a person from the control of the  
8 department at the time required by Section 1766, 1769, 1770,  
9 1770.1, or 1771, as applicable, would be physically dangerous to  
10 the public because of the person's mental or physical deficiency,  
11 disorder, or abnormality, the department, through its director, shall  
12 request the prosecuting attorney to petition the committing court  
13 for an order directing that the person remain subject to the control  
14 of the authority beyond that time. The petition shall be filed at least  
15 90 days before the time of discharge otherwise required. The  
16 petition shall be accompanied by a written statement of the facts  
17 upon which the department bases its opinion that discharge from  
18 control of the department at the time stated would be physically  
19 dangerous to the public, but the petition may not be dismissed and  
20 an order may not be denied merely because of technical defects in  
21 the application.

22 The prosecuting attorney shall promptly notify the Department  
23 of the Youth Authority of a decision not to file a petition.

24 SEC. 46. *Section 1800.5 is added to the Welfare and*  
25 *Institutions Code, to read:*

26 1800.5. *Notwithstanding any other provision of law, the Youth*  
27 *Authority Board may request the Director of the Youth Authority*  
28 *to review any case where the department has not made a request*  
29 *to the prosecuting attorney pursuant to Section 1800 and the board*  
30 *finds that the ward would be physically dangerous to the public*  
31 *because of the ward's mental or physical deficiency, disorder, or*  
32 *abnormality. Upon the board's request, a mental health*  
33 *professional designated by the director shall review the case and*  
34 *thereafter may affirm the finding or order additional assessment*  
35 *of the ward. If, after review, the mental health designee affirms the*  
36 *initial finding, concludes that a subsequent assessment does not*  
37 *demonstrate that a ward is subject to extended detention pursuant*  
38 *to Section 1800, or fails to respond to a request from the board*  
39 *within the timeframe mandated by this section, the board*  
40 *thereafter may request the prosecuting attorney to petition the*

1 committing court for an order directing that the person remain  
2 subject to the control of the authority pursuant to Section 1800 if  
3 the board continues to find that the ward would be physically  
4 dangerous to the public because of the ward's mental or physical  
5 deficiency, disorder, or abnormality. The board's request to the  
6 prosecuting attorney shall be accompanied by a copy of the ward's  
7 file and any documentation upon which the board bases its  
8 opinion, and shall include any documentation of the department's  
9 review and recommendations made pursuant to this section. Any  
10 request for review pursuant to this section shall be submitted to the  
11 director not less than 120 days before the date of final discharge,  
12 and the review shall be completed and transmitted to the board not  
13 more than 15 days after the request has been received.

14 SEC. 47. Section 1802 of the Welfare and Institutions Code is  
15 amended to read:

16 1802. When an order for continued detention is made as  
17 provided in Section 1801, the control of the authority over the  
18 person shall continue, subject to the provisions of this chapter, but,  
19 unless the person is previously discharged as provided in Section  
20 1766, the authority shall, within two years after the date of that  
21 order in the case of persons committed by the juvenile court, or  
22 within two years after the date of that order in the case of persons  
23 committed after conviction in criminal proceedings, file a new  
24 application for continued detention in accordance with the  
25 provisions of Section 1800 if continued detention is deemed  
26 necessary. These applications may be repeated at intervals as often  
27 as in the opinion of the authority may be necessary for the  
28 protection of the public, except that the department shall have the  
29 power, in order to protect other persons in the custody of the  
30 department to transfer the custody of any person over 21 years of  
31 age to the Director of Corrections for placement in the appropriate  
32 institution.

33 Each person shall be discharged from the control of the  
34 authority at the termination of the period stated in this section  
35 unless the authority has filed a new application and the court has  
36 made a new order for continued detention as provided above in this  
37 section.

38 ~~SEC. 47.~~

39 SEC. 48. Section 1830 of the Welfare and Institutions Code is  
40 amended to read:

1 1830. The Director of the Youth Authority may participate in  
2 a local work furlough program established pursuant to subdivision  
3 (a) of Section 1208 of the Penal Code, or conduct or discontinue  
4 a work furlough rehabilitation program, in accordance with the  
5 provisions of this article, for appropriate classes of wards at one  
6 or more Youth Authority institutions. He or she may designate any  
7 officer or employee of the department to be the Youth Authority  
8 work furlough administrator and may assign personnel to assist the  
9 administrator.

10 ~~SEC. 48.~~

11 *SEC. 49.* It is the intent of the Legislature that the Youth  
12 Authority Board be housed within the Department of the Youth  
13 Authority. The Department of General Services shall evaluate the  
14 options regarding current leases and determine when a move is  
15 appropriate.

16 *SEC. 50.* The sum of one million five hundred and fifty  
17 thousand dollars (\$1,550,000) is hereby appropriated from the  
18 General Fund to the Youthful Offender Parole Board to  
19 supplement funding provided in Item 5450-001-0001 of the  
20 Budget Act of 2002.

21 ~~SEC. 49.~~

22 *SEC. 51.* This act makes an appropriation for the usual current  
23 expenses of the state within the meaning of Article IV of the  
24 Constitution and shall go into immediate effect.

25 ~~SEC. 50.~~

26 *SEC. 52.* Sections 1 to ~~47~~ 49, inclusive, of this act shall  
27 become operative on January 1, 2004.